

House Study Bill 106

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
REVENUE BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the policy and technical administration of the
2 tax and related laws by the department of revenue, including
3 administration of income, sales, use, cigarette, and tobacco
4 taxes.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1264XD 82
7 mg/je/5

PAG LIN

1 1 DIVISION I
1 2 TAX ADMINISTRATION
1 3 Section 1. Section 15E.44, subsection 1, Code 2007, is
1 4 amended to read as follows:
1 5 1. In order for an equity investment to qualify for a tax
1 6 credit, the business in which the equity investment is made
1 7 shall, within one hundred twenty days of the date of the first
1 8 investment, notify the board of the names, addresses, ~~taxpayer~~
~~1 9 identification numbers~~, shares issued, consideration paid for
1 10 the shares, and the amount of any tax credits, of all
1 11 shareholders who may initially qualify for the tax credits,
1 12 and the earliest year in which the tax credits may be
1 13 redeemed. The list of shareholders who may qualify for the
1 14 tax credits shall be amended as new equity investments are
1 15 sold or as any information on the list shall change.
1 16 Sec. 2. Section 15E.45, subsection 3, paragraph a,
1 17 subparagraph (1), Code 2007, is amended to read as follows:
1 18 (1) The names, addresses, ~~taxpayer identification numbers~~,
1 19 equity interests issued, consideration paid for the interests,
1 20 and the amount of any tax credits.
1 21 Sec. 3. Section 421.26, Code 2007, is amended to read as
1 22 follows:
1 23 421.26 PERSONAL LIABILITY FOR TAX DUE.
1 24 If a licensee or other person under section 452A.65, a
1 25 retailer or purchaser under chapter 423A, ~~or~~ 423B, ~~or~~ 423E, or
1 26 section 423.31 or 423.33, or a retailer or purchaser under
1 27 section 423.32, ~~or~~ a user under section 423.34, ~~or permit~~
~~1 28 holder or licensee under section 453A.13, 453A.16, or 453A.44~~
1 29 fails to pay a tax under those sections when due, an officer
1 30 of a corporation or association, notwithstanding sections
1 31 490A.601 and 490A.602, a member or manager of a limited
1 32 liability company, or a partner of a partnership, having
1 33 control or supervision of or the authority for remitting the
1 34 tax payments and having a substantial legal or equitable
1 35 interest in the ownership of the corporation, association,
2 1 limited liability company, or partnership, who has
2 2 intentionally failed to pay the tax is personally liable for
2 3 the payment of the tax, interest, and penalty due and unpaid.
2 4 However, this section shall not apply to taxes on accounts
2 5 receivable. The dissolution of a corporation, association,
2 6 limited liability company, or partnership shall not discharge
2 7 a person's liability for failure to remit the tax due.
2 8 Sec. 4. Section 421.27, subsection 1, Code 2007, is
2 9 amended by adding the following new paragraph:
2 10 NEW PARAGRAPH. m. That an Iowa inheritance tax return is
2 11 filed for an estate within the later of nine months from the
2 12 date of death or sixty days from the filing of a disclaimer by
2 13 the beneficiary of the estate refusing to take the property or
2 14 right or interest in the property.
2 15 Sec. 5. Section 421.27, subsection 2, Code 2007, is
2 16 amended by adding the following new paragraph:
2 17 NEW PARAGRAPH. i. That an Iowa inheritance tax return is

2 18 filed for an estate within the later of nine months from the
2 19 date of death or sixty days from the filing of a disclaimer by
2 20 the beneficiary of the estate refusing to take the property or
2 21 right or interest in the property.

2 22 Sec. 6. Section 422.7, subsection 32, Code 2007, is
2 23 amended by adding the following new paragraph:

2 24 NEW PARAGRAPH. c. Add the amount resulting from a
2 25 withdrawal made by a taxpayer from the Iowa educational
2 26 savings plan trust for purposes other than the payment of
2 27 qualified education expenses to the extent previously deducted
2 28 as a contribution to the trust.

2 29 Sec. 7. Section 422.11S, subsection 6, paragraph d, Code
2 30 2007, is amended to read as follows:

2 31 d. Each school that is served by a school tuition
2 32 organization shall submit a participation form annually to the
2 33 department by ~~October 15~~ November 1 providing the following
2 34 information:

2 35 (1) Certified enrollment as of ~~the third Friday of~~
3 1 ~~September~~ October 1, or the first Monday in October if October
3 2 1 falls on a Saturday or Sunday.

3 3 (2) The school tuition organization that represents the
3 4 school. A school shall only be represented by one school
3 5 tuition organization.

3 6 Sec. 8. Section 422.11S, subsection 7, paragraph b,
3 7 unnumbered paragraph 1, Code 2007, is amended to read as
3 8 follows:

3 9 Each year by ~~November 15~~ December 1, the department shall
3 10 authorize school tuition organizations to issue tax credit
3 11 certificates for the following tax year. However, for the tax
3 12 year beginning in the 2006 calendar year only, the department,
3 13 by September 1, 2006, shall authorize school tuition
3 14 organizations to issue tax credit certificates for the 2006
3 15 calendar tax year. For the tax year beginning in the 2006
3 16 calendar year only, each school served by a school tuition
3 17 organization shall submit a participation form to the
3 18 department by August 1, 2006, providing the certified
3 19 enrollment as of the third Friday of September 2005, along
3 20 with the school tuition organization that represents the
3 21 school. Tax credit certificates available for issue by each
3 22 school tuition organization shall be determined in the
3 23 following manner:

3 24 Sec. 9. Section 422.12E, unnumbered paragraph 2, Code
3 25 2007, is amended to read as follows:

3 26 If more checkoffs are enacted in the same session of the
3 27 general assembly than there is space for inclusion on the
3 28 individual tax return form, the earliest enacted checkoffs for
3 29 which there is space for inclusion on the return form shall be
3 30 included on the return form, and all other checkoffs enacted
3 31 during that session of the general assembly are repealed. If
3 32 more checkoffs are enacted in the same session of the general
3 33 assembly than there is space for inclusion on the individual
3 34 income tax form and the additional checkoffs are enacted on
3 35 the same day, the director shall determine which checkoffs
4 1 shall be included on the return form.

4 2 Sec. 10. Section 422.13, subsection 5, Code 2007, is
4 3 amended to read as follows:

4 4 5. Notwithstanding subsections 1 through 4 and sections
4 5 422.15 and 422.36, a partnership, a limited liability company
4 6 whose members are taxed on the company's income under
4 7 provisions of the Internal Revenue Code, trust, or corporation
4 8 whose stockholders are taxed on the corporation's income under
4 9 the provisions of the Internal Revenue Code may, not later
4 10 than the due date for filing its return for the taxable year,
4 11 including any extension thereof, elect to file a composite
4 12 return for the nonresident partners, members, beneficiaries,
4 13 or shareholders. Nonresident trusts or estates which are
4 14 partners, members, beneficiaries, or shareholders in
4 15 partnerships, limited liability companies, trusts, or S
4 16 corporations may also be included on a composite return. The
4 17 director may require that a composite return be filed under
4 18 the conditions deemed appropriate by the director. A
4 19 partnership, limited liability company, trust, or corporation
4 20 filing a composite return is liable for tax required to be
4 21 shown due on the return. All powers of the director and
4 22 requirements of the director apply to returns filed under this
4 23 subsection including, but not limited to, the provisions of
4 24 this division and division VI of this chapter.

4 25 Sec. 11. Section 422.35, subsection 17, Code 2007, is
4 26 amended to read as follows:

4 27 17. Subtract the amount of the employer social security
4 28 credit allowable for the tax year under section 45B of the

4 29 Internal Revenue Code to the extent that the credit increases
4 30 federal ~~adjusted gross taxable~~ income.

4 31 Sec. 12. Section 422.73, subsection 3, Code 2007, is
4 32 amended by striking the subsection.

4 33 Sec. 13. Section 422.75, Code 2007, is amended to read as
4 34 follows:

4 35 422.75 STATISTICS == PUBLICATION.

5 1 The department shall prepare and publish an annual report
5 2 which shall include statistics reasonably available, with
5 3 respect to the operation of this chapter, including amounts
5 4 collected, classification of taxpayers, and such other facts
5 5 as are deemed pertinent and valuable. The annual report shall
5 6 also include the reports and information required pursuant to
5 7 ~~section 421.1, subsection 4, paragraph "e"; section 421.17,~~
5 8 ~~subsection 13; section 421.17, subsection 27, paragraph "h";~~
5 9 ~~and section 421.60, subsection 2, paragraphs "i" and "l"; and~~
5 10 ~~1997 Iowa Acts, ch. 211, section 22, subsection 5, paragraph~~
5 11 ~~"a".~~

5 12 Sec. 14. Section 423.2, subsection 6, unnumbered paragraph
5 13 2, Code 2007, is amended to read as follows:

5 14 For the purposes of this subsection, "financial
5 15 institutions" means all national banks, federally chartered
5 16 savings and loan associations, federally chartered savings
5 17 banks, federally chartered credit unions, banks organized
5 18 under chapter 524, savings and loan associations and savings
5 19 banks organized under chapter 534, ~~and~~ credit unions organized
5 20 under chapter 533, ~~and all banks, savings banks, credit~~
5 21 ~~unions, and savings and loan associations chartered or~~
5 22 ~~otherwise created under the laws of any state and doing~~
5 23 ~~business in Iowa.~~

5 24 Sec. 15. Section 423.2, Code 2007, is amended by adding
5 25 the following new subsection:

5 26 NEW SUBSECTION. 9A. A tax of five percent is imposed upon
5 27 the sales price of audiovisual works, audio works, books,
5 28 computer software, or ring tones that are sold as digital
5 29 products and that are sold by subscription, digital code, or
5 30 in some other manner and delivered electronically for
5 31 temporary or permanent retention when sold to an individual
5 32 for the individual's own use and consumption.

5 33 For the purposes of this subsection:

5 34 a. "Audiovisual works" means a series of related images
5 35 which, when shown in succession, impart an impression of
6 1 motion, together with accompanying sounds, if any.

6 2 b. "Audio works" means works that result from the fixation
6 3 of a series of musical, spoken, or other sounds.

6 4 c. "Book" means a work which is generally recognized in
6 5 the ordinary and usual sense as a "book". "Book" does not
6 6 include newspapers, periodicals, databases, chat rooms, blogs,
6 7 or other similar products.

6 8 d. "Computer software" means the same as defined in
6 9 section 423.1.

6 10 e. "Delivered electronically" means delivered to or
6 11 received by the purchaser by means other than tangible storage
6 12 media.

6 13 f. "Digital code" means a code that provides a purchaser
6 14 with a right to obtain an item within a specified category of
6 15 selected digital products. A digital code may be obtained by
6 16 any means, including email or by tangible means regardless of
6 17 its designation as "song", "video code", or "book code".

6 18 g. "Ring tones" means digitized sound files which are
6 19 downloaded onto a device and which may be used to alert a
6 20 customer with respect to a communication.

6 21 h. "Subscription" means an agreement with a seller which
6 22 grants a consumer the right to obtain selected digital
6 23 products in a fixed quantity or for a fixed period of time or
6 24 both.

6 25 Sec. 16. Section 423.3, subsection 65, Code 2007, is
6 26 amended to read as follows:

6 27 65. The sales price from charges paid to a provider for
6 28 access to on-line computer services. For purposes of this
6 29 subsection, "on-line computer service" means a service that
6 30 provides or enables computer access by multiple users to the
6 31 internet or to other information made available through a
6 32 computer server or other device.

6 33 Sec. 17. Section 423.3, subsection 80, paragraph b, Code
6 34 2007, is amended to read as follows:

6 35 b. If a contractor, subcontractor, or builder is to use
7 1 building materials, supplies, and equipment in the performance
7 2 of a construction contract with a designated exempt entity,
7 3 the person shall purchase such items of tangible personal
7 4 property without liability for the tax if such property will

7 5 be used in the performance of the construction contract and a
7 6 purchasing agent authorization letter and an exemption
7 7 certificate, issued by the designated exempt entity, are
7 8 presented to the retailer. The sales price of building
7 9 materials, supplies, or equipment is exempt from tax by this
7 10 subsection only to the extent the building materials,
7 11 supplies, or equipment are completely consumed in the
7 12 performance of the construction contract with the designated
7 13 exempt entity.

7 14 Sec. 18. Section 423.41, Code 2007, is amended to read as
7 15 follows:

7 16 423.41 BOOKS == EXAMINATION.

7 17 Every retailer required or authorized to collect taxes
7 18 imposed by this chapter and every person using in this state
7 19 tangible personal property, services, or the product of
7 20 services shall keep records, receipts, invoices, and other
7 21 pertinent papers as the director shall require, in the form
7 22 that the director shall require, for as long as the director
7 23 has the authority to examine and determine tax due. The
7 24 director or any duly authorized agent of the department may
7 25 examine the books, papers, records, and equipment of any
7 26 person either selling tangible personal property or services
7 27 or liable for the tax imposed by this chapter, and investigate
7 28 the character of the business of any person in order to verify
7 29 the accuracy of any return made, or if a return was not made
7 30 by the person, ascertain and determine the amount due under
7 31 this chapter. These books, papers, and records shall be made
7 32 available within this state for examination upon reasonable
7 33 notice when the director deems it advisable and so orders. If
7 34 the taxpayer maintains any records in an electronic format,

7 35 the taxpayer shall comply with reasonable requests by the
8 1 director or the director's authorized agents to provide those
8 2 electronic records in a standard record format. The preceding
8 3 requirements shall likewise apply to users and persons
8 4 furnishing services enumerated in section 423.2.

8 5 Sec. 19. Section 423A.4, unnumbered paragraph 3, Code
8 6 2007, is amended to read as follows:

8 7 A local hotel and motel tax shall be imposed on January 1
8 8 or July 1, following the notification of the director of
8 9 revenue. Once imposed, the tax shall remain in effect at the
8 10 rate imposed for a minimum of one year. A local hotel and
8 11 motel tax shall terminate only on June 30 or December 31. At
8 12 least forty-five days prior to the tax being effective or
8 13 prior to a revision in the tax rate, or prior to the repeal of
8 14 the tax, a city or county shall provide notice by mail of such
8 15 action to the director of revenue. The director shall have
8 16 the authority to waive the notice requirement.

8 17 Sec. 20. Section 423B.1, subsection 6, paragraph b, Code
8 18 2007, is amended to read as follows:

8 19 b. Within ten days of the election at which a majority of
8 20 those voting on the question favors the imposition, repeal, or
8 21 change in the rate of a local option tax, the county auditor
8 22 shall give written notice of the result of the election by
8 23 sending a copy of the abstract of the votes from the favorable
8 24 election to the director of revenue or, in the case of a local
8 25 vehicle tax, to the director of the department of
8 26 transportation. The appropriate director shall have the
8 27 authority to waive the notice requirement.

8 28 Sec. 21. Section 423E.2, subsection 5, paragraph b, Code
8 29 2007, is amended to read as follows:

8 30 b. Within ten days of the election at which a majority of
8 31 those voting on the question favors the imposition, repeal,
8 32 extension, or change in the rate of the tax, the county
8 33 auditor shall give written notice of the result of the
8 34 election by sending a copy of the abstract of the votes from
8 35 the favorable election to the director of revenue. Election
9 1 costs shall be apportioned among school districts within the
9 2 county on a pro rata basis in proportion to the number of
9 3 registered voters in each school district who reside within
9 4 the county and the total number of registered voters within
9 5 the county. The director shall have the authority to waive
9 6 the notice requirement.

9 7 DIVISION II
9 8 CIGARETTES AND TOBACCO

9 9 Sec. 22. Section 421B.3, Code 2007, is amended by adding
9 10 the following new subsection:

9 11 NEW SUBSECTION. 3. a. The following civil penalties
9 12 shall be imposed for a violation of this section:

9 13 (1) A two hundred dollar penalty for the first violation.
9 14 (2) A five hundred dollar penalty for a second violation
9 15 within three years of the first violation.

9 16 (3) A thousand dollar penalty for a third or subsequent
9 17 violation within three years of the first violation.
9 18 Each day the violation occurs counts as a new violation for
9 19 purposes of this subsection.
9 20 b. The civil penalty imposed under this subsection is in
9 21 addition to the penalty imposed under subsection 1. Penalties
9 22 collected under this subsection shall be deposited into the
9 23 general fund of the state.
9 24 Sec. 23. Section 453A.7, unnumbered paragraph 2, Code
9 25 2007, is amended to read as follows:
9 26 There is appropriated annually from the ~~general fund of the~~
9 27 ~~state the sum of one hundred fifteen thousand dollars state~~
9 28 ~~treasury from funds not otherwise appropriated an amount~~
9 29 ~~sufficient~~ to carry out the provisions of this section.
9 30 Sec. 24. Section 453A.13, subsections 5 and 9, Code 2007,
9 31 are amended to read as follows:
9 32 5. APPLICATION == BOND. ~~Said permits~~ Permits shall be
9 33 issued only upon applications accompanied by the fee indicated
9 34 above, and by an adequate bond as provided in section 453A.14,
9 35 and upon forms furnished by the department upon written
10 1 request. The failure to furnish such forms shall be no excuse
10 2 for the failure to file the ~~same forms~~ unless absolute refusal
10 3 is shown. ~~Said~~ The forms shall set forth all of the
10 4 following:
10 5 a. The manner under which ~~such the~~ distributor,
10 6 wholesaler, or retailer, transacts or intends to transact such
10 7 business as a distributor, wholesaler, or retailer.
10 8 b. The principal office, residence, and place of business,
10 9 ~~for which where~~ the permit is to apply.
10 10 c. If the applicant is not an individual, the principal
10 11 officers or members ~~thereof, not to exceed three,~~ and their
10 12 addresses.
10 13 d. ~~Such Any~~ other information as the director shall by
10 14 rules prescribe.
10 15 9. PERMIT == FORM AND CONTENTS. Each permit issued shall
10 16 describe clearly the place of business for which it is issued,
10 17 shall be nonassignable, consecutively numbered, designating
10 18 the kind of permit, and shall authorize the sale of cigarettes
10 19 in this state subject to the limitations and restrictions
10 20 herein contained. The retail permits shall be upon forms
10 21 furnished by the department or on forms made available or
10 22 approved by the department.
10 23 Sec. 25. Section 453A.13, Code 2007, is amended by adding
10 24 the following new subsection:
10 25 NEW SUBSECTION. 10. PERMIT DISPLAYED. The permit shall,
10 26 at all times, be publicly displayed by the distributor,
10 27 wholesaler, or retailer at the place of business so as to be
10 28 easily seen by the public and the persons authorized to
10 29 inspect the place of business. The proprietor or keeper of
10 30 any building or place where cigarettes and other tobacco
10 31 products are kept for sale, or with intent to sell, shall upon
10 32 request of any agent of the department or any peace officer
10 33 exhibit the permit. A refusal or failure to exhibit the
10 34 permit is prima facie evidence that the cigarettes or other
10 35 tobacco products are kept for sale or with intent to sell in
11 1 violation of this division.
11 2 Sec. 26. Section 453A.15, subsection 2, Code 2007, is
11 3 amended to read as follows:
11 4 2. Where a state permit holder sells cigarettes at retail,
11 5 the holder shall be required to ~~issue an invoice to the~~
11 6 ~~holder's retail department for~~ maintain detailed records for
11 7 sales of cigarettes to be sold at retail and ~~such the~~
11 8 ~~cigarette invoices~~ sales records shall be kept separate and
11 9 apart.
11 10 Sec. 27. Section 453A.15, Code 2007, is amended by adding
11 11 the following new subsection:
11 12 NEW SUBSECTION. 7. The director may require by rule that
11 13 reports required to be made under this division be filed by
11 14 electronic transmission.
11 15 Sec. 28. Section 453A.18, Code 2007, is amended to read as
11 16 follows:
11 17 453A.18 FORMS FOR RECORDS AND REPORTS.
11 18 The department shall furnish or make available in
11 19 electronic form, without charge, to holders of the various
11 20 permits, forms in sufficient quantities to enable permit
11 21 holders to make the reports required to be made under this
11 22 division. The permit holders shall furnish at their own
11 23 expense the books, records, and invoices, required to be used
11 24 and kept, but the books, records, and invoices shall be in
11 25 exact conformity to the forms prescribed for that purpose by
11 26 the director, and shall be kept and used in the manner

11 27 prescribed by the director. However, the director may, by
11 28 express order in certain cases, authorize permit holders to
11 29 keep their records in a manner and upon forms other than those
11 30 so prescribed. The authorization may be revoked at any time.

11 31 Sec. 29. Section 453A.24, Code 2007, is amended to read as
11 32 follows:

11 33 453A.24 CARRIER TO PERMIT ACCESS TO RECORDS.

11 34 1. Every common carrier or person in this state having
11 35 custody of books or records showing the transportation of
12 1 cigarettes both interstate and intrastate shall give and allow
12 2 the department free access to ~~such those~~ books and records.

12 3 2. ~~The director may require by rule that common carriers~~
12 4 ~~or the appropriate persons provide monthly reports to the~~
12 5 ~~department detailing all information the department deems~~
12 6 ~~necessary on shipments into and out of Iowa of cigarettes and~~
12 7 ~~tobacco products as set forth in divisions I and II of this~~
12 8 ~~chapter. The director may require by rule that the reports be~~
12 9 ~~filed by electronic transmission.~~

12 10 Sec. 30. Section 453A.25, subsection 3, Code 2007, is
12 11 amended to read as follows:

12 12 3. ~~The director is hereby authorized to appoint an~~
12 13 ~~assistant, whose sole duty it shall be~~ may designate employees
12 14 to administer and enforce the provisions of this chapter,
12 15 including the collection of all taxes provided for ~~herein in~~
12 16 this chapter. ~~In such the enforcement,~~ the director may
12 17 request aid from the attorney general, the special agents of
12 18 the state, any county attorney, or any peace officer. The
12 19 director ~~is authorized to~~ may appoint ~~such~~ clerks and
12 20 additional help as may be needed to ~~carry out the provisions~~
12 21 ~~of administer~~ this chapter.

12 22 Sec. 31. Section 453A.30, Code 2007, is amended to read as
12 23 follows:

12 24 453A.30 ASSESSMENT OF COST OF AUDIT.

12 25 The department may employ auditors or other persons to
12 26 audit and examine the books and records of any permit holder
12 27 or other person dealing in cigarettes to ascertain whether
12 28 ~~such the~~ permit holder or other person has paid the amount of
12 29 the taxes required to be paid by the holder or person or filed
12 30 all reports containing all required information as specified
12 31 by the department under the provisions of this chapter. If

12 32 such taxes have not been paid or such reports not filed, as
12 33 required, the department shall assess against ~~such the~~ permit
12 34 holder or other person, as additional penalty, the reasonable
12 35 expenses and costs of ~~such the~~ investigation and audit.

13 1 Sec. 32. Section 453A.31, Code 2007, is amended by adding
13 2 the following new unnumbered paragraph:

13 3 NEW UNNUMBERED PARAGRAPH. If a cigarette distributor fails
13 4 to file a return or to report timely, stamps shall not be
13 5 provided to that cigarette distributor until all returns and
13 6 reports are filed properly and all tax, penalties, and
13 7 interest are paid.

13 8 Sec. 33. Section 453A.32, Code 2007, is amended by adding
13 9 the following new subsection:

13 10 NEW SUBSECTION. 6. The provisions of this section
13 11 applying to cigarettes shall also apply to tobacco products
13 12 taxed under division II of this chapter.

13 13 Sec. 34. Section 453A.36, subsection 6, Code 2007, is
13 14 amended to read as follows:

13 15 6. Any sales of cigarettes or tobacco products made
13 16 through a cigarette vending machine are subject to rules and
13 17 penalties relative to retail sales of cigarettes and tobacco
13 18 products provided for in this chapter. ~~No cigarettes shall~~
13 19 Cigarettes shall not be sold through any cigarette vending
13 20 machine unless the cigarettes have been properly stamped or
13 21 metered as provided by this division, and in case of violation
13 22 of this provision, the permit of the dealer authorizing retail
13 23 sales of cigarettes shall be ~~canceled~~ revoked. Payment of the
13 24 ~~license permit~~ fee as provided in section 453A.13 authorizes a
13 25 cigarette vendor to sell cigarettes or tobacco products
13 26 through vending machines. However, cigarettes or tobacco
13 27 products shall not be sold through a vending machine unless
13 28 the vending machine is located in a place where the retailer
13 29 ensures that no person younger than eighteen years of age is
13 30 present or permitted to enter at any time. This section does
13 31 not require a retail ~~license~~ permit holder to buy a cigarette
13 32 vendor's permit if the retail ~~license~~ permit holder is in
13 33 fact the owner of the cigarette vending machines and the
13 34 machines are operated in the location described in the retail
13 35 permit.

14 1 Sec. 35. Section 453A.40, subsection 1, Code 2007, is
14 2 amended to read as follows:

14 3 1. All persons required to ~~be licensed~~ hold a
14 4 distributor's permit, wholesaler's permit, or retailer's
14 5 permit under section 453A.13 ~~as distributors~~ having in their
14 6 possession and held for resale on the effective date of an
14 7 increase in the tax rate cigarettes or little cigars upon
14 8 which the tax under section 453A.6 or 453A.43 has been paid,
14 9 unused cigarette tax stamps which have been paid for under
14 10 section 453A.8, or unused metered imprints which have been
14 11 paid for under section 453A.12 shall be subject to an
14 12 inventory tax on the items as provided in this section.
14 13 Sec. 36. Section 453A.45, subsection 5, unnumbered
14 14 paragraphs 2 and 4, Code 2007, are amended to read as follows:
14 15 ~~Such~~ The report shall be made on forms provided by the
14 16 director ~~or the director may require by rule that the report~~
14 17 ~~be filed by electronic transmission.~~

14 18 Any person who fails or refuses to transmit to the director
14 19 the required reports or whoever refuses to permit the
14 20 examination of the records by the director shall be guilty of
14 21 a ~~simple~~ serious misdemeanor.

14 22 Sec. 37. Section 453A.46, subsections 1 and 3, Code 2007,
14 23 are amended to read as follows:

14 24 1. On or before the twentieth day of each calendar month
14 25 every distributor with a place of business in this state shall
14 26 file a return with the director showing for the preceding
14 27 calendar month the quantity and wholesale sales price of each
14 28 tobacco product brought, or caused to be brought, into this
14 29 state for sale; ~~and~~ made, manufactured, or fabricated in this
14 30 state for sale in this state, ~~during the preceding calendar~~
14 31 ~~month; and any other information the director may require.~~

14 32 Every licensed distributor outside this state shall in like
14 33 manner file a return with the director showing for the
14 34 preceding calendar month the quantity and wholesale sales
14 35 price of each tobacco product shipped or transported to
15 1 retailers in this state to be sold by those retailers, ~~during~~
15 2 ~~the preceding calendar month and any other information the~~
15 3 ~~director may require.~~ Returns shall be made upon forms

15 4 furnished ~~or made available in electronic form~~ and prescribed
15 5 by the director and shall contain other information as the
15 6 director may require. Each return shall be accompanied by a
15 7 remittance for the full tax liability shown on the return,
15 8 less a discount as fixed by the director not to exceed five
15 9 percent of the tax. Within three years after the return is
15 10 filed or within three years after the return became due,
15 11 whichever is later, the department shall examine it, determine
15 12 the correct amount of tax, and assess the tax against the
15 13 taxpayer for any deficiency. The period for examination and
15 14 determination of the correct amount of tax is unlimited in the
15 15 case of a false or fraudulent return made with the intent to
15 16 evade tax, or in the case of a failure to file a return.

15 17 The three-year ~~period of~~ limitation ~~period~~ may be extended
15 18 by a taxpayer by signing a waiver agreement form ~~to be~~
15 19 provided by the department. The agreement must stipulate the
15 20 ~~period of extension~~ period and the tax period to which the
15 21 extension applies. The agreement must also ~~provide~~ stipulate
15 22 that a claim for refund may be filed by the taxpayer at any
15 23 time during the ~~period of~~ extension period.

15 24 3. In addition to the tax or additional tax, the taxpayer
15 25 shall also pay a penalty as provided in section 421.27 and be
15 26 subject to the civil penalties set forth in sections 421.27;
15 27 453A.31, subsection 2; and 453A.50, subsection 3, as
15 28 applicable.

15 29 Sec. 38. Section 453A.46, Code 2007, is amended by adding
15 30 the following new subsection:

15 31 NEW SUBSECTION. 7. The director may require by rule that
15 32 reports be filed by electronic transmission.

15 33 Sec. 39. Section 453A.50, subsection 2, Code 2007, is
15 34 amended to read as follows:

15 35 2. ~~Any~~ Except as otherwise provided, any person who
16 1 ~~otherwise~~ violates any provisions of this division shall be
16 2 guilty of a simple misdemeanor.

16 3 Sec. 40. Section 453A.50, Code 2007, is amended by adding
16 4 the following new subsection:

16 5 NEW SUBSECTION. 3. The following civil penalties shall be
16 6 imposed for a violation of this division:

16 7 a. A two hundred dollar penalty for the first violation.

16 8 b. A five hundred dollar penalty for a second violation
16 9 within three years of the first violation.

16 10 c. A thousand dollar penalty for a third or subsequent
16 11 violation within three years of the first violation.

16 12 The penalty imposed in this subsection is in addition to
16 13 the tax, penalty, and interest imposed in other sections of

16 14 this division. Each day a violation occurs counts as a new
16 15 violation for purposes of this subsection.

16 16 Sec. 41. NEW SECTION. 453A.51 ASSESSMENT OF COST OF
16 17 AUDIT.

16 18 The department may employ auditors or other persons to
16 19 audit and examine the books and records of a permit holder or
16 20 other person dealing in tobacco products to ascertain whether
16 21 the permit holder or other person has paid the amount of the
16 22 taxes required to be paid by the permit holder or other person
16 23 under the provisions of this chapter. If the taxes have not
16 24 been paid, as required, the department shall assess against
16 25 the permit holder or other person, as additional penalty, the
16 26 reasonable expenses and costs of the investigation and audit.

16 27 EXPLANATION

16 28 DIVISION I == TAX ADMINISTRATION. Code sections 15E.44,
16 29 subsection 1, and 15E.45, subsection 3, are amended to
16 30 eliminate the requirement that tax identification numbers of
16 31 investors (social security numbers) must be provided at the
16 32 time that a qualifying business or community-based seed
16 33 capital fund submits an application to the Iowa capital
16 34 investment board. The tax identification numbers are provided
16 35 at the time that the investors apply for a tax credit

17 1 certificate.

17 2 Code section 421.26 is amended to require cigarette permit
17 3 holders to be personally liable for unpaid cigarette taxes.
17 4 This requirement is the same as presently exists for
17 5 licensees, retailers, purchasers, users, and permit holders
17 6 for other taxes.

17 7 Code section 421.27, subsections 1 and 2, are amended to
17 8 allow a penalty waiver which reflects a legislative change
17 9 made to correct an inconsistent time frame for filing
17 10 disclaimers by the beneficiary of an estate refusing to take
17 11 the property.

17 12 Code section 422.7, subsection 32, is amended to provide
17 13 that withdrawals from the Iowa educational savings plan trust
17 14 that are not used for qualified education expenses must be
17 15 added back on the Iowa individual income tax return to the
17 16 extent that a deduction for a contribution was previously
17 17 allowed.

17 18 Code section 422.11S, subsections 6 and 7, are amended to
17 19 change the deadlines for certified enrollment and notification
17 20 requirements for the school tuition organization tax credit to
17 21 be consistent with the notification requirements of Code
17 22 section 257.6 relating to the school aid formula.

17 23 Code section 422.12E is amended to state that the director
17 24 will determine which checkoffs will be included on the
17 25 individual income tax form in situations where additional
17 26 checkoffs in excess of the number allowed are enacted on the
17 27 same day.

17 28 Code section 422.13, subsection 5, is amended to allow
17 29 nonresident trusts and estates that are members of
17 30 partnerships, limited liability, trusts, or S corporations to
17 31 be included on an Iowa composite return.

17 32 Code section 422.35, subsection 17, is amended to correct
17 33 the reference to federal taxable income for the deduction
17 34 allowed for the social security credit for corporation income
17 35 tax.

18 1 Code section 422.73, subsection 3, adopted as part of 2006
18 2 Iowa Acts, House File 2351, is repealed. Because any capital
18 3 or ordinary gain from the involuntary conversion relating to
18 4 eminent domain is exempt from Iowa individual or corporation
18 5 income tax, there is no need to file a claim for refund
18 6 relating to the repurchase of property when tax was not paid
18 7 on the gain in the initial instance.

18 8 Code section 422.75 is amended to update current reporting
18 9 requirements related to the annual report filed by the
18 10 department.

18 11 Code section 423.2, subsection 6, is amended to require
18 12 financial institutions unregulated by federal or Iowa
18 13 authorities to pay sales tax on service charges if they are
18 14 doing business in Iowa.

18 15 Code section 423.2 is amended to impose a sales tax on the
18 16 sale of audiovisual works, audio works, books, computer
18 17 software, and ring tones that are sold to an individual for
18 18 the individual's use and consumption. The tax is imposed on
18 19 these items when they are digitally or electronically
18 20 delivered to the individual. This proposal equalizes the sale
18 21 of these items between an Iowa retail business and an internet
18 22 business.

18 23 Code section 423.3, subsection 65, is amended to exempt
18 24 from sales tax charges paid for access to the internet by

18 25 means of any device and not solely by means of a computer
18 26 server.

18 27 Code section 423.3, subsection 80, is amended to exempt
18 28 from sales tax sales of building materials, supplies, or
18 29 equipment only to the extent those items are consumed in an
18 30 exempt construction project.

18 31 Code section 423.41 is amended to require a taxpayer
18 32 maintaining electronic records to provide those electronic
18 33 records relating to sales and use taxes to the director for
18 34 examination upon request.

18 35 Code sections 423A.4, 423B.1, subsection 6, and 423E.2,
19 1 subsection 5, are amended to grant the director the authority
19 2 to waive the requirement that a city or county notify the
19 3 director of the imposition, repeal, extension, or change in
19 4 the rate of the local option tax.

19 5 DIVISION II == CIGARETTE/TOBACCO TAXES. Code section
19 6 421B.3 is amended to impose civil penalties for the sale of
19 7 cigarettes below minimum price. These penalties are
19 8 consistent with those for violations of other cigarette and
19 9 tobacco tax laws and rules. The penalties are in addition to
19 10 other penalties for violating the chapter and moneys collected
19 11 are to be deposited into the state general fund.

19 12 Code section 453A.7 is amended to provide sufficient funds
19 13 for the department to purchase tax stamps for placement on
19 14 packages of cigarettes as evidence that the tax has been paid.

19 15 Code section 453A.13 is amended to require furnishing of
19 16 the names and addresses of all officers of the business
19 17 applying for a bond to obtain a cigarette permit. Code
19 18 section 453A.13 is further amended to permit the use of
19 19 cigarette retail permit forms approved by the department.

19 20 Code section 453A.13 is also amended to require the public
19 21 display of the permit at the place of business.

19 22 Code section 453A.15, subsection 2, requires cigarette
19 23 permit holders to maintain separate records for cigarette
19 24 sales that are sold at wholesale and sold at retail from the
19 25 same location.

19 26 Code section 453A.15 is amended to require the permit
19 27 holder to maintain detailed records and to give the director
19 28 the authority to require that cigarette reports be filed by
19 29 electronic transmission.

19 30 Code section 453A.18 authorizes the department to furnish
19 31 permit holders with electronic forms in lieu of paper forms.

19 32 Code section 453A.24 is amended to require common carriers
19 33 or other persons to provide monthly reports to the department
19 34 by electronic transmission if the director requires by rule.

19 35 Code section 453A.25, subsection 3, is amended to delete
20 1 the requirement that the director appoint a person whose only
20 2 responsibility is to administer cigarette and tobacco taxes.

20 3 Code section 453A.30 is amended to include the requirements
20 4 for the filing of cigarette reports the same as those for the
20 5 filing of cigarette returns relating to the cost of an audit.

20 6 Code section 453A.31 is amended to prohibit the sale of
20 7 cigarette stamps to distributors who do not file appropriate
20 8 returns or reports in a timely manner.

20 9 Code section 453A.32 is amended to make the cigarette
20 10 seizure provisions applicable to tobacco products.

20 11 Code section 453A.36, subsection 6, is amended to specify
20 12 that cigarette retailers receive a permit, not a license, to
20 13 do business in Iowa.

20 14 Code section 453A.40, subsection 1, is amended to impose
20 15 the cigarette inventory tax on distributors, wholesalers, and
20 16 retailers that hold permits to sell cigarettes.

20 17 Code section 453A.45, subsection 5, is amended to give the
20 18 director the authority to require by rule that tobacco
20 19 transportation reports be filed electronically and makes the
20 20 failure or refusal to file or allow the examination of the
20 21 required reports a serious misdemeanor rather than a simple
20 22 misdemeanor.

20 23 Code section 453A.46 is amended to give the director the
20 24 authority to require by rule any additional information that
20 25 should be included on a return, adds language to reference
20 26 civil penalties, and gives the director the authority to
20 27 require by rule that distributors file tobacco reports
20 28 electronically.

20 29 Code section 453A.50, subsection 2, is amended to specify
20 30 that unless otherwise stated, violations of the tobacco
20 31 products division are simple misdemeanors.

20 32 Code section 453A.50 is also amended to impose civil
20 33 penalties for violation of the tobacco tax laws and
20 34 regulations. These penalties are consistent with penalties
20 35 that are applicable to cigarettes.

21 1 Code section 453A.51 is enacted to make tobacco products
21 2 tax enforcement provisions similar to cigarette tax
21 3 enforcement provisions related to the cost of an audit.
21 4 LSB 1264XD 82
21 5 mg:sc/je/5